

Applicant: J Wheatland, 1st; JW1, 26.4.18

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (ChD)

IN THE MATTER OF THE INSOLVENCY ACT 1986

Case No:

IN THE MATTER OF SCL GROUP LTD
COMPANY NUMBER 05514098

IN THE MATTER OF SCL ANALYTICS LTD
COMPANY NUMBER 09838667

IN THE MATTER OF SCL COMMERCIAL LTD
COMPANY NUMBER 08840965

IN THE MATTER OF SCL SOCIAL LTD
COMPANY NUMBER 08410560

IN THE MATTER OF SCL ELECTIONS LTD
COMPANY NUMBER 08256225

IN THE MATTER OF CAMBRIDGE ANALYTICA(UK) LTD
COMPANY NUMBER 09375920

IN THE MATTER OF CAMBRIDGE ANALYTICA LLC
(A COMPANY REGISTERED IN DELAWARE)

IN THE MATTER SCL USA INC
(A COMPANY REGISTERED IN DELAWARE)

1ST WITNESS STATEMENT OF JULIAN WHEATLAND

I, **JULIAN WHEATLAND** of 13 St James's Gardens, London W11 4RD, company director,
STATE as follows:

- 1 I am a director of each of the Applicant companies and am duly authorised to make this witness statement on their behalfs.
- 2 I make this witness statement in support of 8 linked applications for Administration Orders in relation to the following companies, pursuant to Paragraph 12(1)(b) or (c) of Schedule B1 to the Insolvency Act 1986 (the **Act**):

- 2.1.1 SCL Group Ltd (**Group**)
- 2.1.2 SCL Analytics Limited (**Analytics**)
- 2.1.3 SCL Commercial Limited (**Commercial**)
- 2.1.4 SCL Social Limited (**Social**)
- 2.1.5 SCL Elections Limited (**Elections**)
- 2.1.6 Cambridge Analytica(UK) Limited (**Cambridge**)
- 2.1.7 Cambridge Analytica LLC (**Cambridge LLC**)
- 2.1.8 SCL USA Inc (**USA**)

3 In each case, the applicant is the board of directors of the company seeking an administration order to be made against their own company.

4 I also seek orders:

- 4.1 That time for service be abridged.
- 4.2 That Vincent John Green and Mark Newman be appointed as Joint Administrator of the Companies
- 4.3 That the costs of and occasioned by these applications be, in each case, paid as an expense of the administration.

5 I shall refer to the 8 companies collectively as **the Companies**. The Companies currently form part of a wider group of companies. I shall refer to this wider group as the **Wider Group**.

6 Unless otherwise stated, I make this statement from matters within my own knowledge and the statements in this witness statement are true to the best of my knowledge, information and belief. Where such facts and matters are not within my own knowledge or information, I believe them to be true and state the source of such belief.

- 7 There is now produced and shown to me a bundle of documents marked "AN1" which comprises of true copies of the documents to which I shall refer (**the Bundle**). Unless indicated to the contrary, all references to page numbers in this witness statement will relate to the Bundle.

Executive Summary

- 8 The Companies are facing critical cash flow issues and severe creditor pressure.
- 9 They each are seeking Orders that Vincent John Green and Mark Newman of Crowe Clark Whitehill be appointed as administrators of each of the Companies (the **Administrator**) with a view to securing a sale of the Companies as going concerns or of their underlying businesses so that a better realisation might be achieved of the Companies and their assets than would if the Companies were wound up on a liquidation.
- 10 Resolutions of the Companies to seek an administration order are as exhibited at **pages** .

Background

- 1 The Wider Group is involved with behavioural research and strategic communications. Its principal place of business is in Pkf Littlejohn 2nd Floor, 1 Westferry Circus, Canary Wharf, London, United Kingdom, E14 4HD.
- 2 Each of the Companies undertakes a different role within the Wider Group:
- 2.1.1 Group undertakes no trading activity; it is a holding company. The company has no employees.
 - 2.1.2 Analytics undertakes no trading activity; it is a holding company. The company has no employees.
 - 2.1.3 Commercial undertakes the sale and marketing of data analytics and digital marketing communications services to commercial customers. The company has no employees.

- 2.1.4 Social undertakes sale and marketing of campaign management and communication consulting services to political customers. The company has no employees.
- 2.1.5 Elections undertakes the provision of data analytics, marketing and communications services to political and commercial customers, marketed either directly or via affiliate companies. The company has 61 employees.
- 2.1.6 Cambridge is dormant. The company has no employees.
- 2.1.7 Cambridge LLC undertakes the sale and marketing of data analytics and digital marketing communications services to commercial and political customers in North America. The company has 8 employees.
- 2.1.8 USA undertakes the provision data analytics and digital marketing communications services to commercial and political customers in North America, marketed by Cambridge Analytica and contracted through its parent, SCL Elections Ltd. The company has 23 employees.

3 The nature of the Companies' businesses means that they are involved in large scale behavioural research and strategic communications. They are associated with the US company, Cambridge Analytica. Controversy in relation to this company is what which has significantly contributed towards the present cash flow crisis.

The Companies

Group

- 4 Group was incorporated on 20 July 2005, with Company Number 05514098.
- 5 Its registered office is at Pkf Littlejohn 2nd Floor, 1 Westferry Circus, Canary Wharf, London, United Kingdom, E14 4HD.
- 6 According to its latest annual return filed at Companies House, the share capital of Group is 1,000,000 shares, of £0.10 each, and the amount of capital paid up or credited as paid up is £ 21,901.60. This entire shareholding is held by Emmerdata Ltd.
- 7 Group has 2 directors Nigel Oakes, and myself.
- 8 It employs no members of staff.
- 9 A print out from Companies House in relation to this company can be found at .

Analytics

- 10 Analytics was incorporated on 23rd October 2015, with Company Number 09838667.
11 Its registered office is at Pkf Littlejohn 2nd Floor, 1 Westferry Circus, Canary Wharf,
London, United Kingdom, E14 4HD.
12 According to its latest annual return filed at Companies House, the share capital of
Analytics is 1000 shares, of £1 each, and the amount of capital paid up or credited as
paid up is £ 1000. This entire shareholding is held by SCL Group Ltd.
13 Analytics has 1 director, myself.
14 It employs no members of staff.
15 A print out from Companies House in relation to this company can be found at .

Commercial

- 16 Commercial was incorporated on 10 January 2014, with Company Number 08840965.
17 Its registered office is at Pkf Littlejohn 2nd Floor, 1 Westferry Circus, Canary Wharf,
London, United Kingdom, E14 4HD.
18 According to its latest annual return filed at Companies House, the share capital of
Commercial is 100 shares, of £1 each, and the amount of capital paid up or credited as
paid up is £100. This entire shareholding is held by SCL Analytics Ltd.
19 Commercial has 1 director, which is myself.
20 It employs no members of staff.
21 A print out from Companies House in relation to this company can be found at .

Social

- 22 Social was incorporated on 19 February 2013, with Company Number 08410560.
23 Its registered office is at Pkf Littlejohn 2nd Floor, 1 Westferry Circus, Canary Wharf,
London, United Kingdom, E14 4HD.
24 According to its latest annual return filed at Companies House, the share capital of
Social is 100 shares, of £1 each, and the amount of capital paid up or credited as paid
up is £100. This entire shareholding is held by SCL Analytics Ltd.
25 Social has 2 directors who are Christian Teroerde and me.
26 It employs no members of staff.
27 A print out from Companies House in relation to this company can be found at .

Elections

28 Elections was incorporated on 17 October 2012, with Company Number 08256225.
29 Its registered office is at Pkf Littlejohn 2nd Floor, 1 Westferry Circus, Canary Wharf,
London, United Kingdom, E14 4HD.
30 According to its latest annual return filed at Companies House, the share capital of
Elections is 100 shares, of £1 each, and the amount of capital paid up or credited as
paid up is £100. This entire shareholding is held by SCL Analytics Ltd.
31 Elections has 1 director, namely myself.
32 It employs 61 members of staff.
33 A print out from Companies House in relation to this company can be found at .

Cambridge LLC

34 Cambridge LLC was incorporated on 31 December 2013, with Employer
Identification number of 47-2950548.
35 Its registered location is in Delaware
36 It is entirely owned by Emerdata Ltd.
37 All assets in the UK (located in London office of SCL Elections Ltd), including
laptops, research, data and data models and intellectual property.
38 Operational management is exercised from the UK by SCL Elections Ltd (including
accounts, invoicing, intellectual property, data models, brand management and overall
strategic management).
39 Cambridge LLC has a representative office in the UK provided by SCL Elections Ltd
(Lease is with SCL Elections Ltd.).
40 It places of business are registered as:
597 5th Avenue, New York, NY 10017
1901 Pennsylvania Avenue, Washington DC 20006
2511 Jefferson Davis Highway, Arlington VA 22202
41 The board has only one member which is Emerdata Limited
42 It employs 8 staff in Virginia.
43 The bank accounts are in the USA.

SCL USA Inc

44 SCL USA Inc was formed on 22 April 2014, with an Employer Identification number of 46-5516610.

45 Its registered location is in Delaware

46 It is entirely owned by its parent company SCL Elections Ltd. (share certificate at page)

47 USA has 1 director, namely myself.

48 It employs no staff.

49 It places of business are registered as:

597 5th Avenue, New York, NY 10017

1901 Pennsylvania Avenue, Washington DC 20006

2511 Jefferson Davis Highway, Arlington VA 22202

50 It employs 23 staff divided into 21 New York and 2 Washington DC.

51 In addition, it is financed by SCL Elections Ltd and its sole customer is SCL Elections Ltd.

52 It's overall strategic management was exercised by SCL Elections Ltd, Product development provided by SCL Elections Ltd, Accounts managed by SCL Elections Ltd, HR policy and governance provided by SCL Elections Ltd.

53 The bank accounts are in the USA.

The Companies' Wider Financial Positions

54 In this next section I shall set out the financial positions of each of the Companies in turn. Whilst this may indicate a picture of historic balance sheet solvency, the Companies are presently and demonstrably cash flow insolvent for reasons I will explain.

Group

55 A copy of the Financial Statements for Group for the year ended 31 December 2016, as lodged at Companies House, is at pages . This is the latest information which

is publically available. From these statements, it can be seen that the company had current assets of £151,962 and current liabilities of £13,417 giving net current assets of £138,545. Group had net assets of £289,145, including £150,600 of fixed assets.

56 For the 2017 financial year, Group generated turnover of £0 and a loss of £2,708.

57 The profit and loss shows sales of £0 with direct costs of £0.

58 The balance sheet shows net assets as at 31 December 2017 of £286,437.

Analytics

59 A copy of the Financial Statements for Analytics for the year ended 31 December 2016, as lodged at Companies House, is at **pages** . This is the latest information which is publically available. From these statements, it can be seen that the company had current assets of £375,906 and current liabilities of £259,883 giving net current assets of £116,023. Analytics had net assets of £116,323, including £300 of fixed assets.

60 For the 2017 financial year, Analytics generated turnover of £0 and a loss of £42,083.

61 The profit and loss show sales of £0 with direct costs of £0.

62 The balance sheet shows net assets as at 31 December 2017 of £77,501.

Commercial

63 A copy of the Financial Statements for Commercial for the year ended 31 December 2016, as lodged at Companies House, is at **pages** . This is the latest information which is publically available. From these statements, it can be seen that the company had current assets of £75,453 and current liabilities of £4,400 giving net current assets of £71,053. Commercial had net assets of £71,053, with no fixed assets.

64 For the 2017 financial year, Commercial generated turnover of £417,129 and a profit of £199,455.

65 The profit and loss shows sales of £417,129 with direct costs of £855.

66 The balance sheet shows net assets as at 31 December 2017 of £270,508. I am conscious that circa £232,390 represented uncollected debts and I am unable to comment on how likely debts are to be collected given the disputes I will refer to later.

Social

- 67 A copy of the Financial Statements for Social for the year ended 31 December 2016, as lodged at Companies House, is at **pages** . This is the latest information which is publically available. From these statements, it can be seen that the company had current assets of £1,343,140 and current liabilities of £344,160 giving net current assets of £998,980. Social had net assets of £999,725, including £745 of fixed assets.
- 68 For the 2017 financial year, Social generated turnover of £2,891,185 and a profit of £1,038,626.
- 69 The profit and loss shows sales of £2,891,185 with direct costs of £635,264.
- 70 The balance sheet shows net assets as at 31 December 2017 of £2,282,213. I am conscious that circa £64,359 represented uncollected debts and I am unable to comment on how likely debts are to be collected given the disputes I will refer to later.

Elections

- 71 A copy of the Financial Statements for Elections for the year ended 31 December 2016, as lodged at Companies House, is at **pages** . This is the latest information which is publically available. From these statements, it can be seen that the company had current assets of £6,359,798 and current liabilities of £4,030,286 giving net current assets of £2,329,512. Elections had net assets of £2,390,984, including £61,182 of fixed assets.
- 72 For the 2017 financial year, Elections generated turnover of £17,442,299 and a profit of £1,737,304.
- 73 The profit and loss shows sales of £17,442,299 with direct costs of £10,326,703.
- 74 The balance sheet shows net assets as at 31 December 2017 of £4,128,000. I am conscious that circa £8,436,494 represented uncollected debts and I am unable to comment on how likely debts are to be collected given the disputes I will refer to later.

Cambridge

- 75 A copy of the Financial Statements for Cambridge for the year ended 31 December 2016, as lodged at Companies House, is at **pages** . This is the latest information which is publically available. From these statements, it can be seen that the company is dormant with share capital of £100.00 and no assets or liabilities, the debtor listed being the unpaid share capital.

SCL USA Inc

- 76 For the 2017 financial year, SCL USA Inc generated turnover of \$11,600,721 and a loss of \$463.
- 77 The profit and loss shows sales of \$11,600,721 with direct costs of \$3,280,245.
- 78 The balance sheet shows net liabilities as at 31 December 2017 of \$463. I am conscious that circa \$4,387,572 represented uncollected debts and I am unable to comment on how likely debts are to be collected given the disputes I will refer to later.

Cambridge LLP.

- 79 For the 2017 financial year, Cambridge LLP generated turnover of \$7,212,247 and a loss of \$19,392,640.
- 80 The profit and loss shows sales of \$7,212,247 with direct costs of \$24,311,568.
- 81 The balance sheet shows net liabilities as at 31 December 2017 of \$10,419,989. I am conscious that circa \$1,622,992 represented uncollected debts and I am unable to comment on how likely debts are to be collected given the disputes I will refer to later.

Creditor Pressure Demonstrating an Inability to pay debts

- 82 Following accusations in the Observer newspaper, the New York Times and the Washington Post, there has been significant adverse publicity about the use of Facebook data by Elections and Cambridge Analytica and other group companies.

- 83 Given the adverse press coverage that has affected tour companies and the damage to the brand, clients have either withdrawn their business or have started to withhold or contest payment of their bills.
- 84 By contrast, creditors have started pressing for payment. Due to the difficulties with collection, the companies have found it increasingly difficult to meet the sums outstanding or demanded
- 85 Whilst it is difficult to give a final picture of the companies' financial for reasons I will relate in the section, looking at the physical demands that have been presented to the companies. 75% of those are presently overdue and there are not funds to meet these debts.
- 86 This matter has been compounded by clients demanding the return of funds paid on account of work being done.
- 87 As a result of what is set out above, I believe that each of the Companies is unable to pay its debts as and when they fall due and is therefore insolvent on a cash flow basis.

Benefit of making an Administration Order

- 88 On 23rd March 2018, the Information Commissioner raided the shared offices of SCL in London and seized all the companies' computers holding financial records.
- 89 This has mean that the true financial position of the group companies has been difficult to ascertain. The group has tried to continue trading but absent that data, it is unclear which debts need to paid and should not be. It is also unclear as to what the current financial position of the group presently is. It is important for the companies to obtain a supervised moratorium so that the companies business can be sold, debts collected and the creditors addressed in an orderly fashion.

- 90 I believe that it is possible that an orderly sale of the Companies' businesses would, in all likelihood, achieve a better result for the Companies creditors as a whole than would be likely if the Companies were wound up.
- 91 There is work in progress in respect of most of the companies. In an administration there would be an opportunity to complete those contracts or at the very least realise the value on the work done.
- 92 On liquidation, the Companies assets would be realised on a forced sale basis, there would be claims from the employees (whose employment would necessarily have to end), the Companies would not be able to recover any sum for its goodwill and the recovery under its contracts would be likely to be significantly impaired given that they are already disputed and there would be no workforce to remedy any alleged issues. The opportunity to realise value of work in progress would be lost.
- 93 At **pages** are estimated outcome statements which have been prepared by the proposed administrators, comparing the likely outcomes for each of the Companies in Administration and compulsory winding-up. On the present facts, the costs of administration and liquidation are broadly similar. I understand from the Proposed Administrators that their statements are deliberately pessimistic and conservative because of the missing data that has been seized by the ICO and the financial uncertainties that have resulted from this action.
- 94 Having said this, significantly better realisations can be expected of the respective Companies' assets in administration.
- 95 It is far from fanciful that the businesses could be sold as going concerns. I know this because the Companies have already received offers and expressions of interest for the business and / or assets of the Companies if they could be sold as a going concern. The estimated outcome statements do not reflect the offers that have been made so far from proposed purchasers that might be willing and able to commit to The proposed administrators, whilst they have the comfort of knowing that these potential deals are

on the table, would no doubt wish to see whether a better deal can be found whether by negotiation or by exposing the deal to the market. This could unlock a value for the intangible assets, such as goodwill and intellectual property rights, which the companies' accounts presently give no value to, such as may exist.

- 96 One of the companies in the group, SCL Insight Ltd was sold yesterday.
- 97 The benefit of any successful offer may also enhance the realisable value for work in progress and debtor realisations. At the moment, many customers are refusing to pay because the services have stopped or because of the adverse publicity in the press but if the services are continued by an acquirer, those debts could be more readily collected.
- 98 The potential purchasers are as follows:
- 98.1 An investor, whose identity is known but who has presently requested confidentiality, has expressed an interest in acquiring part of the business, including staff, as a going concern
- 98.2 The former director, Mr Nix has said he is interested in buying either the companies or the business and assets ;
- 99 I am conscious that any better deal the proposed Administrators may find would mean a better recovery for me and the other creditors on the money owed.
- 100 By a sale of the business as a going concern and by avoiding liquidation, it is anticipated that the Companies will enhance realisations and any return to unsecured creditors will not be diluted by claims from the employees (as their employment would be saved).
- 101 I believe that the estimated outcome statements at **pages** truly and fairly reflect the estimated comparative position on liquidation and administration for each of the Companies based on the intimated offers they have so far.

Qualifying Floating Charge Holders

- 102 Barclays Bank plc is the only creditor who would be entitled to appoint either an administrator or an administrative receiver over the Companies or any of them via an out of court process. At **page** is a series of e-mails from Barclays Bank confirming that confirming that they are discharging the security.
- 103 I am not aware of any other creditors holding security over assets of the Companies, other than the charge granted over the premises by Property in favour of Barclays.
- 104 A copy of the current Charges Register at Companies House for each of the Companies is at **pages** .

No Current Insolvency Proceedings

- 105 At the present time, no winding up petitions have been presented against the Companies.

Insurance/Banking

- 106 The Companies are not insurance undertakings, credit institutions, investment undertakings providing services involving the holding of funds or securities for third parties or collective investment undertakings.

Main proceedings

- 107 Each of the Companies' registered offices is in the United Kingdom and each of the Companies conducts the administration of its interests within the United Kingdom. To the best of my knowledge and belief, therefore, I believe that the EU Regulation will apply to each of the applications and that each of these proceedings are main proceedings as defined in the Regulation.

Statements of Proposed Administrator and Their Powers to Act

108 If Administration Orders are made, it is intended that Vincent John Green and Mark Newman of Crowe Clark Whitehill, 4 Mount Ephraim Road, Tunbridge Wells, Kent TN1 1EE, will act as Joint Administrators, and a statement by them in the prescribed form is attached to the respective Applications certifying that they consent to act as joint administrators of the Companies and that the purposes of the administration are, in their opinion, reasonably likely to be achieved in each case.

Relief sought

109 In the circumstances, I request that the court grant administration orders in the terms sought.

Statement of Truth

I believe that the facts stated in this witness statement are true.

Signed: 

Name: JULIAN WHEATLAND

Dated: 2/5/18

Applicant: J Wheatland, 1st; JW1, 26.4.18

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EXHIBIT “JW1”

THIS IS THE EXHIBIT MARKED “JW1”
REFERRED TO IN
THE 1ST WITNESS STATEMENT OF JULIAN WHEATLAND